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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130903775-4276-02]

RIN 0648-XD603

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fishery;  
Notification of Butterfish Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS transfers quota to the 2014 butterfish domestic annual harvest allocation from the butterfish mortality cap on the longfin squid fishery in order to prevent an overage of the directed butterfish fishery. This action complies with the 2014 specifications and management measures for the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan.

DATES: Effective [insert date of filing for public inspection with the Office of the Federal Register], through December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, (978) 281-9195.

SUPPLEMENTARY INFORMATION: Regulations governing the butterfish fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch (ABC), annual catch limit (ACL), domestic harvest and processing

(DAH and DAP), and butterfish mortality cap on the longfin squid fishery. The 2014 butterfish DAH for the directed butterfish fishery was set as 3,200 mt, and the butterfish mortality cap on the longfin squid fishery was set at 3,844 mt (79 FR 18834, April 4, 2014). The regulations allow NMFS to transfer up to 50 percent of any unused butterfish allocation from the butterfish mortality cap allocation to the butterfish domestic annual harvest (DAH) if harvest of butterfish in the directed butterfish fishery is likely to exceed the DAH, and provided the transfer of butterfish from the butterfish mortality cap allocation does not increase the likelihood of closing the longfin squid fishery due to the harvest of the butterfish mortality cap. When such a determination is made, NMFS is required to publish a notification in the **Federal Register** to adjust the butterfish DAH and butterfish mortality cap.

NMFS has determined that only 12 percent of the butterfish mortality cap has been harvested as of October 30, 2014, that 86 percent of the butterfish DAH has been harvested, and that the butterfish mortality cap will not be exceeded if 50 percent of the allocation is transferred to the butterfish DAH. Therefore, effective immediately, 1,900 mt will be transferred from the butterfish mortality cap to the butterfish DAH in order to prevent a DAH overage, and to allow for the continued operation of the directed butterfish fishery. The adjusted butterfish mortality cap on the longfin squid fishery is 1,984 mt, and the adjusted butterfish DAH is 5,100 mt. The three-phase management system for butterfish still applies to the directed butterfish fishery, meaning that, during November and December, the fishery will move to phase 2 (i.e., the possession limit for the directed fishery will be reduced to 5,000 mt for vessels fishing with greater than 3 inch (76 mm) mesh) when the butterfish harvest reaches 82 percent of the DAH (4,182 mt). Similarly, the closure threshold for the butterfish mortality cap on the longfin squid fishery would still apply, meaning that the directed longfin squid fishery would be closed if

butterfish discards reach 1,885 mt (95 percent of the 1,984 mt butterfish mortality cap).

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it is impracticable and contrary to the public interest. This action increases the butterfish DAH by 1,900 mt (from 3,200 mt to 5,100 mt) through December 31, 2014. The regulations at § 648.24(c)(5) allow for a transfer of allocation from the butterfish mortality cap to the butterfish DAH to allow for efficient utilization of the butterfish resource. The butterfish fishing year extends from January 1 to December 31. Data indicate that, as of October 30, 2014, 86 percent of the butterfish DAH has been harvested. For the month of October, vessels participating in the directed butterfish fishery have been able to harvest an average of 51,000 lb (19 mt) per day, or close to 350,000 lb (131 mt) per week. The longfin squid fishery has harvested butterfish discards, which count against the butterfish mortality cap, at a very slow rate this year. As of October 30, 2014, only 12 percent of the butterfish mortality cap on the longfin squid fishery has been harvested, meaning that just over 1 percent of the butterfish mortality cap has been harvested each month. At this rate, NMFS has projected that less than 15 percent of the current (3,884 mt) butterfish mortality cap will be harvested by December 31, 2014. If implementation of this quota transfer is delayed to solicit public comment, the increase may not be effective prior to the end of the 2014 fishing year and butterfish that is currently allocated to the longfin squid fishery may go unutilized, thereby undermining the intended economic benefits associated with this action. Transferring the allocation allows the directed butterfish fishery to continue to target

butterfish while the fish are available. NMFS further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 et seq.

Dated: November 3, 2014.

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Emily H. Menashes,  
Acting Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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